

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

VINCENT RUSSELL,

Plaintiff,

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AVERY LYONS, et al.,

Defendant.

CASE NO. 2:22-CV-1863-RAJ-DWC

ORDER DENYING REQUEST FOR COURT-APPOINTED COUNSEL

Currently before the Court is Plaintiff Vincent Russell's Motion requesting Court-

appointed counsel. Dkt. 14. Plaintiff has previously sought Court-appointed counsel and his requests were denied. *See* Dkts. 5, 8, 10, 11. No constitutional right to appointed counsel exists in a § 1983 action. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is discretionary, not mandatory”). However, in “exceptional circumstances,” a district court may appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Rand v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998). To decide whether exceptional circumstances

1 exist, the Court must evaluate both “the likelihood of success on the merits [and] the ability of
2 the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues
3 involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (*quoting Weygandt v.*
4 *Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts showing he has an
5 insufficient grasp of his case or the legal issues involved and an inadequate ability to articulate
6 the factual basis of his claims. *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103
7 (9th Cir. 2004).

8 In the Motion for Counsel, Plaintiff states he is not legally experienced and has numerous
9 mental health problems. Dkt. 14. He states counsel will assist in making this process fair. *Id.* At
10 this time, Plaintiff has not shown, nor does the Court find, this case involves complex facts or
11 law. Plaintiff has also not shown he is likely to succeed on the merits of his case or shown an
12 inability to articulate the factual basis of his claims in a fashion understandable to the Court.
13 Additionally, Plaintiff is able to clearly articulate his requests in a way that is understandable to
14 the Court. While Plaintiff may be able to better litigate this case with appointed counsel, that
15 fact, alone, does not establish an extraordinary circumstance warranting the appointment of
16 counsel. *See Rand*, 113 F.3d at 1525; *Wilborn*, 789 F.2d at 1331. Therefore, the Court finds
17 Plaintiff has failed to show the appointment of counsel is appropriate at this time. Accordingly,
18 Plaintiff’s Motion for Counsel (Dkt. 14) is denied.

19 Dated this 4th day of May, 2023.

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David W. Christel
Chief United States Magistrate Judge